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Attorney Docket No.: 3524/14

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Hausman

Serial No: 09/584,045

Art Unit: 3624

Filed: May 30, 2000

Examiner: Ella Colbert

For: Electronic Trading System for
Electricity ForwardsBy Facsimile
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**RECEIVED
CENTRAL FAX CENTER****OCT 28 2005****SUMMARY OF SEPTEMBER 19, 2005 TELEPHONE INTERVIEW**

Sir:

This paper summarizes the telephone interview between Examiner Colbert and Applicant's Representatives Frank DeRosa and Pristine Johannessen on September 19, 2005, and is filed in response to Interview Summary dated September 28, 2005. On behalf of the Applicant, Applicant's Representatives thank the Examiner for granting the interview and allowing Applicant's position, summarized below, to be orally presented to the Examiner.

Claims 15, 16, 19 and 20, and the restriction requirement dated June 29, 2005 were discussed during the interview. However, the Examiner's comments in the Interview Summary appear to relate only to the claim 16 (and claim 36 which was not discussed during the interview).

The following summarizes the comments made by Applicant's Representatives regarding claims 15, 16, 19 and 20, and US Patent Nos. 5,905,975 ("Ausubel") and 6,519,574 ("Wilton et al.").

Claim 15

Claim 15 encompasses, a trading system, as disclosed in the application, which runs a sweep trading feature. (See, page 7, line 15 - page 8, line 3 and page 49, line 18 - page 50, line 2 of the application).

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Claim 15 claims a trading system comprising programming that provides for, a first counterparty of at least one counterparty pair to sequentially select, for execution by the trading system, a series of forwards trading orders of at least one second counterparty. However, the trading system does not execute any trade of selected forwards trading orders of the series until after all orders in the series have been selected. When all of the orders in the series have been selected, the trading system executes all trades of all orders of the series that are executable in accordance with system programming.

In the auction system disclosed in Ausubel, a bidder may enter bids manually or automatically via a set of bidding rules. Thus, the bidder may respond to each auctioneer system query (e.g., increasing the offering price where the bids exceed the offered quantity) either manually, or automatically through bidding rules. At some point, however, an acceptance bid price is determined by the auctioneer system, the auction is closed and bids at the acceptance price are accepted. Thus, no bidder may select a series of offers from either the auctioneer system or other bidders, as, for example, there is a single acceptance price in an auction.

Claim 16

Claim 16 encompasses, for example, a trading system as disclosed in the application which runs, a same trade again feature described, for example, on page 6, line 18 - page 8, line 7 and page 48, line 9 - page 49, line 2 of the application.

The trading system claimed in claim 16 comprises programming that provides for the trading system to execute a trade of matched forwards trading orders of parties of a counterparty pair and, after execution of the trade, provides notification to the parties of the counterparty pair of the availability of a new forwards trade having the same pricing and size terms as the executed trade, and executing the new trade in response to input by both of the parties of the counterparty pair within a predetermined time after notification.

There is simply no functionality disclosed in Ausubel that facilitates a bidder and the auctioneer system transacting another trade after the conclusion of an auction at the same price and quantity as those of the completed auction.

Claim 19

Claim 19 encompasses, for example, a trading system as disclosed in the application which runs, for example, the spread trading feature described, for example, on page 7, line 15 - page 8, line 3 and page 50, line 19 - page 52, line 3 of the application.

A forwards spread trade involves a primary leg and a secondary leg, and a trader directly trades "on the difference between a bid price and an offer price" of the primary and secondary legs, as discussed on page 7 of the application. According to claim 19, the claimed trading system:

- automatically generates, from forwards orders stored in memory, one of a forwards spread order including a spread price representing a difference between prices of potential first and second leg forwards trades and an order relating to one of the first and second leg forwards trades and a spread order;
- displays the automatically-generated order on display devices of user stations; and
- in response to a request entered by a party at a user station to execute the automatically-generated order, and the forwards spread trade including the first leg forwards trade and the second leg forwards trade.

In Wilton et al., a user inputs arbitrage information and when the Wilton et al. system identifies an arbitrage opportunity, it either automatically executes or provides an alert to the user who entered the arbitrage opportunity. Wilton et al. does not disclose that an identified arbitrage opportunity causes an order to be automatically generated that is displayed on the display devices of user stations, and which then may be the subject of a request to execute at such user stations.

Claim 20

Claim 20 encompasses, for example, a trading system as disclosed in the application which runs, for example, the joining feature described, for example, on page 8, lines 4-10 and page 52, lines 4-21 of the application.

The trading system claimed in claim 20 provides a function, selectable at user stations, for a party to add a new forwards trading order to the trading system having pricing and size terms the same as an existing forwards trading order of another party where, in response to selection of the function and an existing forwards trading order of another party displayed on a display device of the user station of a party, automatically adding as a new forwards trading order to that user station a forwards trading order having the same pricing and size terms as the selected forwards trading order of the other party. Claim 20 thus specifies that a party may enter

an order with the same pricing and size parameters of another party's order without entering order information that is entered when entering orders without this function.

Ausubel simply does not disclose the functionality by which a party may select the bid of another party, and then the selected bid is automatically added as a new bid of the selecting party having the same pricing and size terms as the selected bid of the other party.

The Examiner suggested adding a limitation to claim 20 that a user can select by clicking on an existing order to create an order without accessing an order entry screen. Applicant submits that such a limitation is not necessary because claim 20 already provides for "automatically adding" the new forwards order having the same pricing and size terms as an existing order of another party "in response to . . . selection of an existing forwards order of another party."

Restriction Requirement of June 29, 2005

Applicant thanks the Examiner for agreeing at the interview to reconsider the restriction requirement. In addition to the reasons (summarized below) given in the Response filed August 29, 2005, the Examiner is requested to consider the following. Given that there is no statutory requirement for restriction (35 U.S.C. § 121 is permissive - "the Director may require the application to be restricted") the Office need not require further restriction in this application. Additionally, the Office has already taken up the issue of restriction under 37 C.F.R. § 1.141, and the Office's determination previously made to allow prosecution to continue on claims 15, 16, 19, 20 and 34-37 should not be changed absent a compelling reason, which we submit is not present here.

As pointed out in the Response filed August 29, 2005, as a matter of fundamental fairness, the Examiner should allow prosecution of the eight pending claims to continue in this application. Applicant elected these eight claims in a restriction requirement (telephonic election made on July 15, 2003; see Office Action dated October 1, 2003), and the prior Examiner has conducted searches on these eight claims, issued two substantive office actions, and participated in two personal interviews. The Office should not require a second restriction after claims have been prosecuted as pointed out above. Applicant has expended significant resources to prosecute the previously elected eight claims and would be prejudiced by the requirement to expend additional time and expense to prosecute non-elected claims in a divisional application.

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It is submitted that the amendments to the pending claims previously made did not so change the character of the pending claims as to now mandate restriction. Thus, it is submitted that the current restriction requirement was not necessitated by Applicant's responses.

Closing

Applicant respectfully requests that the Examiner reconsider and withdraw the latest restriction requirement, and that the Examiner withdraw all rejections to and allow the pending claims.

Respectfully submitted,

Dated: October 28, 2005

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1. Summary of September 19, 2005
Telephone Interview

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